

The sale of containers are not subject to Retailers' Occupation Tax liability or Use Tax when the purchasers of those containers transfer to customers the ownership of the containers together with what is contained in them. 86 Ill. Adm. Code 130.2070. (This is a PLR).

October 2, 2000

Dear Xxxxx:

This Private Letter Ruling, issued pursuant to 2 Ill. Adm. Code 1200 (which can be found at <http://www.revenue.state.il.us/legalinformation/regs/part1200>), is in response to your letter of August 11, 2000. Review of your request for a Private Letter Ruling disclosed that all information described in paragraphs 1 through 8 of subsection (b) of the enclosed copy of Section 1200.110 appears to be contained in your request. This Private Letter Ruling will bind the Department only with respect to COMPANY for the issue or issues presented in this ruling. Issuance of this ruling is conditioned upon the understanding that neither COMPANY nor a related taxpayer is currently under audit or involved in litigation concerning the issues that are the subject of this ruling request.

In your letter, you have stated and made inquiry as follows:

I am requesting a private letter ruling to the following situations:

We are a manufacturer of cable products. We ship our product to our customers on steel reels and charge the customer a deposit for the steel reel. Would we need to self-access use tax (if no sales tax is charged) on these steel reels when we purchase them or pay the sales tax charged by the vendor from whom we purchased them? According to Illinois regulation 130.2070, under Section 2 (copy attached), there is no difference between a returnable container where ownership is transferred with a deposit being taken and a non-returnable container. This being the case, wouldn't we simply issue a resale certificate to those vendors who billed us sales tax on these steel reels which we will later charge our customer a deposit for, the same way we would if we were purchasing non-returnable wooden reels?

There are some instances where we do not charge our customers a deposit on returnable steel reels used to ship our product to our customers. When we purchase these steel reels where we do not charge our customers a deposit when we ship our product to them, wouldn't we pay the vendor the local tax only and issue them a ST16-C Manufacturers Purchase Credit Certificate or if the vendor was not licensed to collect Illinois tax, wouldn't we self-access use tax and pay it on Line 12a of Form ST-1 and remove it on Line 16a of Form ST-1. I say this because what is written on what the credit earned can be applied toward (refer to D under #4 attached).

Please respond as soon as possible. If you have any questions, I can be reached at ##.

The sale of containers, as defined in the enclosed copy of Section 130.2070(a) of the Department's rules, are not subject to Retailers' Occupation Tax liability or Use Tax when the purchasers of those containers transfer to customers the ownership of the containers together with what is contained in them. If COMPANY transfers ownership of the cable reels to its customers

together with the cable, the cable reels may be purchased without incurring tax as purchases for resale. See subsection (b) of Section 130.2070. COMPANY must provide its suppliers with Certificates of Resale that contain the information set out in the enclosed copy of 86 Ill. Adm. Code 130.1405.

In the instances when COMPANY does not charge a deposit on the cable reels and COMPANY transfers ownership of the cable reels to its customers together with the cable, the cable reels may also be purchased without incurring tax as purchases for resale. The charge for the cable reel is considered to be a component part of the gross charges for the sale of the cable it is attached to.

Please note that the cable reels would not qualify for the resale exemption if COMPANY did not transfer the ownership of the cable reels to its customers and retained and reused the cable reels or discarded them. See subsection (c)(1) of Section 130.2070. In those instances, Use Tax would be incurred on the purchase of the cable reels. The cable reels would then qualify as production related tangible personal property for purposes of use of Manufacturer's Purchase Credit (MPC). See the enclosed copy of 86 Ill. Adm. Code 130.331.

You are correct in how to report the use of MPC on the ST-1 if your vendor does not collect Illinois tax. Please note that you also must file an ST-16, Annual Report of Manufacturer's Purchase Credit Earned by June 30<sup>th</sup> of the year following the year in which the MPC was earned in order for the MPC to be properly earned. An ST-17, Annual Report of Manufacturer's Purchase Credit Used must also be filed by June 30<sup>th</sup> of the year following the year in which the MPC was used in order for the MPC to be properly used. As you have also correctly noted, MPC can only be used to satisfy the state portion (6.25%) of the tax incurred on the purchase of production related tangible personal property.

The facts upon which this ruling are based are subject to review by the Department during the course of any audit, investigation, or hearing and this ruling shall bind the Department only if the material facts as recited in this ruling are correct and complete. This ruling will cease to bind the Department if there is a pertinent change in statutory law, case law, rules or in the material facts recited in this ruling.

I hope this information is helpful. If you have questions regarding this Private Letter Ruling you may contact me at (217) 782-2844. If you have further questions related to the Illinois sales tax laws, please visit our website at [www.revenue.state.il.us](http://www.revenue.state.il.us) or contact the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

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TDC:msk  
Enc.